

REMARKS

The following remarks are offered in complete response to the Official Action/Restriction Requirement dated January 19, 2007. In light of these remarks, reconsideration of the requirements and examination of all of the claimed subject matter on the merits are respectfully requested.

Claims 1-6, 10, 11, 13, 14, 18, 20-30, 33, 37, 40 and 41 have been amended. Claims 1, 11, 23, 28 and 33 have been amended to correct improper Markush group language. Claims 2, 4, 21, 23, 24, 25, 29 and 40 have been amended to correct improper wording of the claims. Claims 3, 5, 6, 26, 30, 37 and 41 have been amended to cite the claims where the definitions of the variables are described. Claim 10 has been amended to delete an improper form of reference to a list of chemical groups that comprise an electroattractive group. Claim 13 has been amended to clarify the language of the claim based upon the language of Claim 10 from which Claim 13 depends. Claims 14 and 18 have been amended to place the claims in proper claim language. Claims 20 and 22 have been amended to include the structure of the formulas cited within the claims. The structures were previously cited in earlier claims. Claim 27 has been amended to replace "group" with "radical" to have proper antecedent basis. No new matter has been introduced by these amendments.

Claim 44 has been added. Claim 44 depends from Claim 10 and lists members of the electroattractive group that were deleted in the amendment to Claim 10. Support for this new claim is found in original Claim 10 and in paragraph 6, page 5 of the English language translation of the original specification. No new matter has been introduced by this new claim.

Claims 1-33 and 35-44 are pending in this application.

Restriction has been required between the following twelve groups as characterized by the Examiner:

Group 1, Claims 1-19, drawn to compounds and process for making the compounds;

Group 2, Claim 20, drawn to a method of preparing a compound of formula 1c;

Group 3, Claim 21, drawn to a method of preparing a compound wherein Z₅ is a hydrogen atom;

Group 4, Claim 22, drawn to a method of preparing a compound of formula 1a;

Group 5, Claims 23-27, drawn to a method of introducing into an organic compound a radical;

Group 6, Claims 28-32, drawn to the compound of formula II and process for making the same; Applicants believe that Claim 33, which was not classified by the Examiner, also belongs in Group 6.

Group 7, Claim 35, drawn to a process of making the compound of formula IV;

Group 8, Claim 36, drawn to a process of making the compound of formula V;

Group 9, Claim 37, drawn to a process of making the compound of formula VI;

Group 10, Claim 38, drawn to a process of making the compound of formula VII;

Group 11, Claim 39, the compounds of claim 39;

Group 12, Claims 40-43, drawn to a compound of formula VII and a process of making the same.

Applicants respectfully submit that the Examiner has mischaracterized Group 1 in the last paragraph of page 3 of the Office Action by stating that Group 1 is drawn to process for making the compounds. The first 18 claims of Group 1 are drawn to compounds and only Claim 19 is drawn to a process for making compounds.

Applicants hereby elect, with traverse, Group 1, Claims 1-19, drawn to compounds of general formula (I) and process for preparing the compounds of formula (Ib).

For proper restriction between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required. See M.P.E.P. § 803. Applicants respectfully submit that for the reasons described below neither of these conditions are met.

The Examiner has required an election of species from among the twelve groups of species established by the Examiner. The Examiner has taken the position that:

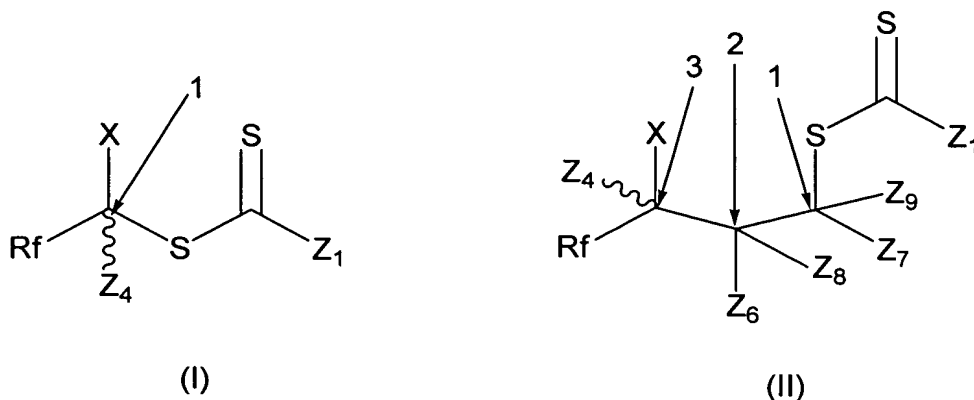
The inventions listed as Group 1 - Group 12 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding technical features for the following reasons: Group 1 is drawn to process for making the compounds, Groups 2-5 and 7-10 are drawn to processes for making different compounds, while Groups 6 and 12 are drawn to different compounds and processes of making them. Group 11 is drawn to compounds of different functionalities. These twelve groups of invention are different from each other. Therefore, there is no special technical feature for the compounds, the processes of making these compounds or the different fields of application of the compounds. Also there is no unity of invention.

Applicants submit that under PCT Rule 13.2, an election of species from among the twelve groups of species is not required. PCT Rule 13.2 states:

*PCT RULE 13.2 - Circumstances in Which the
Requirement of Unity of Invention Is To Be Considered
Fulfilled*

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

There is a technical relationship among the inventions because they involve the same special technical feature, namely a compound comprising a thiocarbonyl-sulfanyl group and a metalloid atom selected from the group consisting of the halogen atoms selected from Cl, Br, I, the chalcogens and the metalloid atoms of the nitrogen group. The claims can be placed into two sets based on the location of the metalloid atom relative to the sulfanyl group. The claims of the first set, Groups 1-5, 11 and 12, comprise compounds where the metalloid is bonded to the carbon that is one position away from the sulfanyl group. See formula (I) below. The claims of the second set, Groups 6-10, comprise compounds where the metalloid is bonded to the carbon that is three positions away from the sulfanyl group. See formula (II) below.



These two groups of compounds are positional isomers and, as, such, there is a technical relationship among the inventions because they involve the same special technical feature. Therefore under PCT Rule 13.2, an election of species from among the twelve groups of species is not required because there is a technical relationship among the inventions by their involving the same special technical feature.

Additionally, Applicants submit that each of the twelve Groups of species selected by the Examiner for election is not independent from each other. Rather Groups are related as to product and method of use of the product. For example, Group 1 contains claims to compounds having formulas: (I) - Claim 1, (Ia) - Claim 3, (1b) - Claim 5 and (Ic) - Claim 6. Group 1 also contains Claim 19 which is directed towards a method for preparing a compound of formula (Ib) in which Z₅ is different from H. Group 2 (Claim 20) is directed towards a method for preparing a compound of formula (Ic), which is claimed under Group 1 in Claim 6. Similarly Group 3 (Claim 21) is directed towards a method for preparing a compound of formula (I), which is claimed under Group 1 in Claim 2. Also Group 4 (Claim 22) is directed towards a method for preparing a compound of formula (Ia), which is claimed under Group 1 in Claim 3. Group 5 (Claims 23-27) are directed towards a method of use of

compounds of formula (I), which are claimed in Group 1. Similarly, Group 6 is related to Groups 7-10 as to product and method of use of the product. Group 6 contains Claims 28 - 31 which are directed to compounds having formulas (II) and (IIa). Group 6 also contains Claim 32 which is directed towards a method for preparing a compound of formula (II). Groups 7-10 (Claims 35-38, respectively) are directed towards methods for using compounds of formula (II), which are claimed under Group 6 in Claim 28, for preparing compound of formulas (IV-VII), respectively. Group 11 (Claim 39) and Group 12 (Claims 40-43), are related to Group 1 as to product and method of use of the product. Claims 39-42 (Groups 11 and 12) are directed towards compounds of formula (VIII) which are produced using the method of Claim 43 (Group 12), which dimerizes a compound of formula I (Group 1). Therefore Groups 11 and 12 are related to Group 1. Therefore an election from among the twelve groups, as required by the Examiner, should not be required because the 12 groups are not independent of each other because they involve the same special technical feature either in the compounds themselves or through the method of using or producing the compounds.

Applicants further submit that it is likely that the results of a search and examination of claims based on compounds of formula (I) would produce references that disclose methods of use of compounds of formula (I), (Ia), (Ib) and (Ic) because formula (I) is generic while formulas (Ia), (Ib) and (Ic) are subsets of compounds included within generic formula (I). Similarly because the compounds of formula (I) and formula (II) are related by being positional isomers, it is likely that the results of a search and examination of claims based on compounds of formula (I) would produce references that disclose the compounds and methods of use of the compounds of

formula (II). Compounds of formula (I) and formula (III) are related by the compounds of formula (I) being used to produce the compounds of formula (III). It is likely that the results of a search and examination of claims based on compounds of formula (I) would produce references that disclose the compounds and methods of producing compounds of formula (III). Thus, Applicants submit that search and examination of the subject matter for compounds of formula (I) would likely encompass a search for methods of use of these compounds as well as the compounds of formulas (II) and (III), and any additional search would not impose a serious burden on the Examiner.

The election of species requirement is also traversed because election of species normally presupposes that no generic claims is allowable, and no art has been adduced which would militate against the allowance of a generic claim here, such as, for example, one of Claim 1.

In view of the foregoing, it is believed that the restriction requirement should be withdrawn and that all claims should be examined on their merits herein. At the very least, rejoinder should be permitted when an elected Group 1 product claim is found allowable. It is believed that, as a minimum, the rejoinder of Groups 2 (Claim 20), Group 3 (Claim 21), Group 4 (Claim 22), Group 5 (Claims 23-27), Group 11 (Claim 39) and Group 12 (Claims 40-43) with elected Group 1 would be required by M.P.E.P. 821.04(b) as revised August 2006. Applicants intend to maintain dependency of the method claims on the product claims or to otherwise include the

limitations of the product claims in these other claims so as to maintain their right to rejoinder.

Because it has been shown above that the compounds of Group 6 are positional isomers of the compounds of Group 1, and that the a search of the claims of elected Group 1 would be coextensive with a search of the claims of Group 6, the claims of Group 6 should be prosecuted with the claims of Group 1. Upon the allowance of claims of Group 6, it is further believed that the rejoinder of Group 7 (Claim 35), Group 8 (Claim 36), Group 9 (Claim 37) and Group 10 (Claim 38) with Group 6 would be required by M.P.E.P. 821.04(b) as revised August 2006.

For at least all of the reasons given above, reconsideration and withdrawal of the restriction requirement and examination of all of the claims on the merits are respectfully requested.

Respectfully submitted,

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